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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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contain clear and conspicuous disclosure of any information that the consumer may need to make inquiries about the charges on the bill.

**I. MARKET FORCES WILL CONTROL MOST OF THE
PROBLEMS THAT THE COMMISSION HAS IDENTIFIED.**

Putting aside for the moment the question of whether the Commission has the jurisdiction to adopt its proposed rules,² there is no need for the Commission to adopt rules at this time. The members of ALTS agree that the goals identified above are appropriate goals for any bill provider to seek to attain. But, to the extent that the Commission's specific proposals are good business practice, which many of them are, there are sufficient business incentives for carriers to adopt those practices without regulatory intervention. Reputable carriers want to provide customers with clear and accurate bills. Otherwise customers will go to another carrier whenever they have the option.

² The Commission has no jurisdiction to adopt rules relating to billing of intrastate services. See Louisiana PSC v. FCC, 476 U.S. 355(1986); Iowa Utilities Commission v. FCC, 120 F.3d 753 (8th Cir. 1997), cert. granted __ U.S. __ (1998). There is no "impossibility to separate intrastate and interstate services in billing that would allow the Commission to circumvent this jurisdictional infirmity. Because billing rules relating to interstate services would be permissible only under the Commission's ancillary jurisdiction, the Commission would have to revisit its finding in 1986 in the Detariffing Order that ancillary jurisdiction need not be exercised because there is sufficient competition in billing. Obviously, competition in billing has grown, rather than declined since the Commission made its decision in that order.

The Commission's NPRM appears to have been adopted primarily because of the number of complaints about the complexity of bills that the Commission has received in the past couple of years as the telecommunications industry moves toward a more competitive model. At times, consumers have been unable to determine what they are being charged for and to whom inquiries should be made in order to resolve such issues. At the same time, as indicated in the separate statement of Commissioner Ness, there has been a recent decline in the number of complaints made at the Commission. It is quite likely, therefore, that some of the confusion is correlated with the transition to the competitive model envisioned in the Telecommunications Act of 1996 and that much of the confusion will dissipate over time. In any event, it is clear that as competition in the provision of services increases, consumers will have additional options if they are dissatisfied with any portion of their service, including the billing of those services.

**II. THERE IS NO NEED FOR THE COMMISSION TO
ADOPT ANY RULES RELATING TO THE BILLING
PRACTICES OF CARRIERS BECAUSE THERE ARE
RULES IN MANY STATES AND OTHER FORUMS WHERE
ISSUES ARE BEING ADDRESSED.**

To the extent there are carriers or other providers of service who are not reputable or have been unable to adopt adequate billing practices at this time, there are sufficient

other forums and regulatory bodies to deal with any problems arising from those bills. As is indicated in the NPRM, there are a number of entities that are looking into billing practices and the problems relating to "cramming" and "slamming" are best dealt with through the voluntary efforts of the carriers³ and the federal and state agencies that deal with fraudulent trade practices.

A number of the states have rules relating to billing and, as noted in the NPRM, the NARUC has recently issued a "White Paper" which offers states several proposals to provide appropriate consumer protections in the provision of clear customer bills. The Commission has specifically sought information from the states in this proceeding and should take no action until it has thoroughly reviewed all the information submitted by the states. There is no need for the Commission to adopt different or overlapping requirements when the states have or are planning on adopting billing rules. A second layer of regulation in this area is overkill and could result in significant costs to carriers that may have recently changed some of their practices to satisfy the state rules that are already in

³ Two months ago the Anti-Cramming Best Practices Guidelines were adopted by a broad range of carriers. The Anti-Cramming workshop was originally convened at the request of the Commission on April 22, 1998. At the very least the Commission ought to allow time for these practices to be implemented before considering the adoption of rules.

place. In addition, of course, FCC rules could add to the confusion rather than lessen it.

III. THE COMMISSION'S PROPOSED RULES ARE INCONSISTENT WITH THE DEREGULATORY THRUST OF THE TELECOMMUNICATIONS ACT OF 1996 AND WOULD IMPAIR COMPETITIVE PROVISION OF SERVICES.

The Commission has often noted that the two primary goals of the Telecommunications Act of 1996 are 1) to encourage competition (in local exchange and other services) and 2) to foster a deregulatory environment. The proposals put forth by the Commission would satisfy neither goal and, in fact, could hurt competition. Billing is an area in which the new carriers can differentiate themselves from the incumbents and their other competitors. The adoption of any rules that would tend to mandate that bills appear in a particular format or with particular wording would negate that ability of competitors to distinguish themselves. And, billing rules would tend to mandate mediocrity in billing rather than superior billing practices. Thus, any new billing requirements imposed by the Commission could put a damper on an area in which competitors may excel.⁴

⁴ The members of ALTS have found that many of the complaints they have received about bills are not based upon an inability to determine what the charges purport to cover (or who to complain to) or that insufficient information is provided. Rather, the complaints that some of the members of ALTS have heard are that, in fact, too much information is provided. The requests that the members of ALTS tend to get are for simpler, less complicated and shorter bills.

Second, of course, the adoption of additional rules on billing format and content would violate the deregulatory thrust of the Telecommunications Act of 1996. As the Commission is well aware under Section 11 of the Act, the Commission is required to review all rules and determine whether those rules are still necessary in light of increased competition. While that Section applies only to existing regulations, the thrust of that section, together with the section on forbearance, Section 10 of the 1996 Act, clearly indicates a preference for less rather than more regulation. To the extent possible, the Commission has been directed to allow market forces to control carrier behavior, rather than regulation. Therefore, the Commission should be very hesitant before adopting any new regulatory scheme, even if for the express purpose of protecting the public from confusion.

**IV. BILLING SYSTEMS ARE HIGHLY COMPLEX AND CHANGES
OFTEN CANNOT BE MADE WITHOUT SIGNIFICANT
EXPENSE TO THE CARRIER.**

The members of ALTS are pleased that the Commission recognized that "the importance of providing accurate and understandable telephone bill[s] must be balanced against the costs incurred to provide the information." NPRM at Para. 11. However, the specific proposals that the Commission has put forth seem not to fully understand the difficulty that carriers would incur if some of the changes were made. For example, there are a

number of proposals that would mandate that certain items be on certain pages and that other pieces of information be on different pieces of paper.⁵ These are the kinds of changes that could cause very significant costs to the carriers. The obvious additional costs would include the added paper costs, potential added postage costs, and new bill stuffing costs (either manual or automatic).

In addition to whatever obvious billing software costs these changes would mandate, there would also be additional costs to other systems in the carriers' networks. A carrier could be required to establish additional links to other company systems and may be required to add features to those systems.

IV. SHOULD THE COMMISSION NEVERTHELESS DECIDE THAT IT HAS JURISDICTION AND THAT IT SHOULD ADOPT BILLING RULES, IT MUST FIRST BALANCE THE COST OF ADOPTION OF SUCH RULES AGAINST THE SUPPOSED BENEFITS OF THE RULES AND SHOULD ADOPT GENERAL PRINCIPLES RATHER THAN MANDATE SPECIFIC WORDING OR SPECIFIC FORMS FOR THE INFORMATION REQUIRED.

As noted above, the members of ALTS agree with the basic principles of fair, complete and accurate bills that the Commission is attempting to achieve. However, the Commission must be very cognizant that billing is also an area in which "one

⁵ If all of the proposals were adopted by the Commission even the simplest of bills would be at least 5 or 6 pages long. Of course most bills are already more than 5 or 6 pages in length (and some business bills are over 100 pages). In any event, it makes no sense to mandate that bills include certain pagination.

size does not fit all." One of the Commission's proposals, for example, is to require bills to identify all changes that have been made to the customer's bill for the particular month. The changes of which a residential consumer might want to be informed might be quite different than the changes a large business that is adding and deleting lines and services all the time might want to see. Therefore, if the Commission should decide that it has the jurisdiction and adopts rules it ought to only adopt very general rules so that the carriers can adapt their bills as necessary to satisfy their particular customers.⁶ Carriers and consumers alike would benefit if the Commission allows carriers flexibility in complying with any rules that may be adopted.

In addition, the Commission should be very hesitant to require repetitive information that may only add cost to the bills and be of little or no use to consumers. For example, in addition to proposing that new or added services and charges be indicated, the Commission proposes that bills have a single page or section summarizing the current status of the customers

⁶ We note that the Commission's discussion of what would be included in the "changes" section is so broad that it might create substantial compliance problems. In paragraph 19, the Commission proposes that carriers provide "clear and conspicuous notification of any activity in a telephone bill that was not present in the last bill." "Any activity" could be read very broadly to include, for example, something relatively minor, like a charge for directory assistance that is generally well understood, but not necessarily used every month.

services "including applicable information regarding: (1) the consumer's presubscribed interstate toll carrier; (2) the consumer's presubscribed intrastate toll carrier, if such carrier is not the same as the consumer's presubscribed interstate toll carrier; (3) the consumer's presubscribed local exchange carrier; (4) any other service providers" Certainly, for the majority of consumers, who do not make changes regularly in their carriers, repetition of this information each month is probably just a waste of paper, especially if there is a requirement that all changes or additions be noted.⁷

Finally, the members of ALTS believe that it would be a mistake, and very costly for carriers, should they be required to identify and differentiate between "deniable" and "non-deniable" charges. The benefit to that number of people who may have been encouraged to pay for services not rendered based on a fear that

⁷ While it would not make any sense for a carrier who is not billing for the other presubscribed carriers to list those other carriers, we note that the Commission's discussion of this proposal is broad enough that it might be read that any carrier billing for any service might have to list the consumer's presubscribed carriers regardless of who is providing the billing for those carriers. That would make no sense whatsoever.

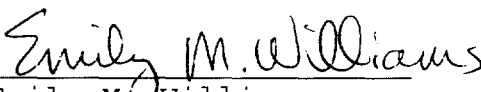
Likewise, a "brief, clear, plain language description of the services rendered" should not be required on each bill for services that are generally understood and are the basically the same each month. If the Commission believes that such a description is ever needed, it would be more efficient and cost effective to include such explanations in a bill insert (that could perhaps be included in the first bill) rather than on the bill itself.

service would be cut is far outweighed by the number of persons who would be encouraged not to pay valid bills because they would believe that there is very little downside to refusing to pay.

CONCLUSION

For the foregoing reasons, the members of ALTS request that the Commission decline to adopt yet another layer of regulation in an area that is already being self regulated and regulated by the States. Such regulation would not satisfy any type of cost benefit analysis.

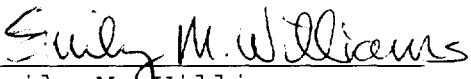
Respectfully Submitted,


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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Comments of the Association for Local Telecommunications Services was served November 13, 1998, on the following persons by hand service.


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